



# Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

BRENDAN HOLLAND  
DIRECT (202) 508-6684  
brendanholland@dwt.com

SUITE 450  
1500 K STREET NW  
WASHINGTON, D.C. 20005-1272

TEL (202) 508-6600  
FAX (202) 508-6699  
www.dwt.com

July 25, 2006

## ***FILED VIA ECFS***

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W., Room TW-A325  
Washington, DC 20554

**Re: MB Docket No. 03-15  
WACY(TV), Appleton, Wisconsin (FIN-361)  
Request for Waiver of Replication Deadline**

Dear Ms. Dortch:

On behalf of Ace TV, Inc. ("Ace"), licensee of WACY(TV), Appleton, Wisconsin, this letter respectfully requests a waiver and six-month extension of the Commission's "use-it or lose-it" replication deadline. As discussed below, WACY-DT currently has an application pending before the Commission seeking a minor modification of its construction permit in order to permit the station to effectively and efficiently replicate its analog service. Until that modification is granted, WACY(TV) cannot fully replicate its certified facilities. Accordingly, Ace submits that a brief waiver and extension of time is in the public interest.

Initially, WACY-DT was allotted out-of-core Channel 59 for its paired DTV channel. Following a rule making proceeding, the Commission substituted the present Channel 27 as WACY-DT's paired DTV channel, which Ace has elected as the station's post-transition channel. Following the channel change, on April 28, 2005, WACY-DT filed an application for a DTV construction permit for Channel 27, which was not granted until January 25, 2006. That digital construction permit is set to expire on July 25, 2006, and by that date, WACY-DT was expected to complete its full replication facilities consistent with the Commission's replication policy.<sup>1</sup>

---

<sup>1</sup> See DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline, Public Notice, DA 06-1255, released June 13, 2006, at 3.

Marlene H. Dortch, Secretary  
July 25, 2006  
Page 2



On June 27, 2006, WACY(TV) filed an FCC Form 301-DT application seeking a minor modification of its DTV construction permit. *See* FCC File No. BMPCDT-20060627ABU. By that application, Ace seeks a slight modification of the station's current DTV construction permit in order to permit the station to diplex its signal with the signal of co-located station WGBA-DT, using an existing antenna currently employed by WGBA-DT. The requested modification will enable WACY-DT to employ an existing antenna and avoid the costly and time-consuming need to install an additional antenna and transmission line on the existing tower – an endeavor that will likely require substantial structural work to the existing tower, or possibly an entirely new tower. Allowing WACY-DT to modify its permit to specify the use of the proposed diplexed antenna is an efficient and cost-effective solution that will enable the station to quickly complete its full-power digital build-out. Therefore, a brief extension of the replication deadline is respectfully requested, as the modification application remains pending before the Commission.

Although WACY-DT has had a DTV construction permit for Channel 27 for only a brief period of time, it has been operating in digital on DTV Channel 59 pursuant to STA for over four years. *See* FCC File No. BMDSTA-20060109ADO. In this manner, WACY-DT has commenced digital operations consistent with the Commission's guidelines, and introduced digital service to Green Bay, Wisconsin with this UPN affiliate. Simultaneously herewith, Ace is submitting a request for extension of WACY-DT's current STA (FCC File No. BMDSTA-20060109ADO) to permit the station to continue its DTV service until such time as the station's full replication facilities on Channel 27 are completed.

If there are any questions regarding this request, please contact the undersigned.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Brendan Holland', written in a cursive style.

Brendan Holland

cc: Shaun Maher (via hand delivery)